



## **NATIONAL TRANSPORTATION SAFETY BOARD**

### **49 CFR Part 801**

**[Docket No.: NTSB-2021-0006]**

**RIN 3147-AA23**

### **Internal Personnel Rules and Practices of the NTSB**

**AGENCY:** National Transportation Safety Board (NTSB).

**ACTION:** Final rule.

**SUMMARY:** The NTSB previously issued an interim final rule (IFR), soliciting comments on its Internal Personnel Rules and Practices. The NTSB received one comment as a result and is issuing a final rule, adopting the IFR with disposition of comment.

**DATES:** This final rule is effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Kathleen Silbaugh, General Counsel, (202) 314-6080, [rulemaking@ntsb.gov](mailto:rulemaking@ntsb.gov).

### **SUPPLEMENTARY INFORMATION:**

#### **I. Background**

On October 4, 2021, the NTSB issued an IFR, soliciting public comments on its amendment of the agency's Internal Personnel Rules and Practices. The IFR reflected that the agency closed its "public reference room" and made qualifying records electronically available. 86 FR 54641 (Oct. 4, 2021). Moreover, the agency removed an outdated paragraph describing a particular category of exempted records under the Freedom of Information Act (FOIA). The revisions to the NTSB FOIA regulation were issued as an IFR to ensure that updated regulations were in place as soon as practicable per *Milner v. Department of the Navy*, 131 S.Ct. 1259 (2011). The IFR comment period closed on December 3, 2021.

On December 30, 2021, the NTSB issued a correcting amendment to revise the wording of certain regulations in part 801 affected by the IFR's amendatory language. 86 FR 74377 (Dec. 30, 2021). By revising all references to "public reading room" to read "electronic reading room", that amendatory instruction resulted in the needless repetition of the word "electronic reading room" in 49 CFR §§ 801.10(b)(2), 801.10(c), 801.30, 801.31, 801.32(b), 801.41. The correcting amendment revised the aforementioned regulations to reflect the agency's original intent for part 801.

## **II. Comment and Response**

On November 28, 2021, the agency received one comment in response to the IFR. Thomas M. Kowalick, Chair, Standard for Motor Vehicle Event Data Recorder, Institute of Electrical and Electronic Engineers proffered the following amendatory language:

Revise 49 CFR 801.52 by issuing an interim final rule to remove or update paragraph (b) in 49 CFR 801.52. Add or update a new paragraph establishing a National Transportation Safety Board (NTSB) *Auto Safety Trust Fund* to collect funds once yearly from automotive OEM's of the motor vehicle(s) in which fatalities occurred based on 00.02 percentage of the value of a statistical life determined by the United States Department of Transportation. Funds shall be collected conforming to the revised 49 CFR 801.52 and CFR 49 [sic] § 389.9 Treatment of Confidential Business Information Submitted Under Confidential Class Determinations from the original equipment manufacturer(s) of the motor vehicle(s) in which fatalities occurred.

*The NTSB's Response:* The NTSB appreciates the suggested amendatory language, but the agency finds that this comment is not significant for rulemaking purposes. Specifically, the proposed language pertains to an Auto Safety Trust Fund, which is beyond the scope of this rulemaking as it neither relates to Internal Personnel Rules and Practices, nor recommends changes proposed by the NTSB. Therefore, the NTSB need not address this comment any further.

## **III. Regulatory Analysis**

Because the NTSB is an independent agency, this final rule does not require an assessment of its potential costs and benefits under section 6(a)(3) of Executive Order (E.O.)

12866, Regulatory Planning and Review, 58 FR 51735 (Sept. 30, 1993). In addition, the NTSB has considered whether this rule would have a significant economic impact on a substantial number of small entities, under the Regulatory Flexibility Act (5 U.S.C. 601-612). The NTSB certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities.

The NTSB does not anticipate this rule will have a substantial, direct effect on state or local governments or will preempt state law; as such, this rule does not have implications for federalism under E.O. 13132, Federalism, 64 FR 43255 (Aug. 4, 1999).

This rule complies with all applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, 61 FR 4729 (Feb. 5, 1996), to minimize litigation, eliminate ambiguity, and reduce burden. The NTSB has evaluated this rule under: E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629 (Feb. 16, 1994); E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks, 62 FR 19885 (Apr. 21, 1997); E.O. 13175, Consultation and Coordination with Indian Tribal Governments, 65 FR 67249 (Nov. 6, 2000); E.O. 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use, 66 FR 28355 (May 18, 2001); and the National Environmental Policy Act, 42 U.S.C. 4321-47. Pursuant to the Paperwork Reduction Act, the NTSB has determined that there is no new requirement for information collection associated with this final rule. Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as not a “major rule,” as defined by 5 U.S.C. 804(2). The NTSB has concluded that this final rule neither violates nor requires further consideration under those orders, statutes, E.O.s, and acts.

#### **List of Subjects in 49 CFR Part 801**

Archives and records, Freedom of information.

#### **PART 801—PUBLIC AVAILABILITY OF INFORMATION**

Accordingly, the interim final rule revising 49 CFR part 801 that published at 86 FR 54641 on October 4, 2021, and the correcting amendment that published at 86 FR 74377 on December 30, 2021, are adopted as final without change.

Jennifer Homendy,

Chair.

[FR Doc. 2023-11962 Filed: 6/5/2023 8:45 am; Publication Date: 6/6/2023]